

DECISION RECORD
Direct Sale of Public Land to
George and Joanne Voile
OR 55881

Decision

My decision is to find the below described land suitable for direct sale and to proceed with the actions necessary to complete the sale. The land will be offered to George and Joanne Voile, adjoining land owners. The sale will be conducted under the authority of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, and the Federal Land Transaction Facilitation Act (FLTFA) of July 25, 2000, 43 U.S.C. 2301. Under provisions of FLTFA, the proceeds from the sale will be deposited in a separate account in the Treasury of the United States and used for future land disposal and acquisition actions.

The location of the subject land is described as follows: WM, T. 8S., R. 42E., section 28, that portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying east and north of Ritter Loop Road, in Baker County, Oregon.

The subject land amounts to approximately 10 acres. The exact acreage will be determined by survey prior to the sale. The land will sold for no less than fair market value, as determined by appraisal. The conveyance of the land will be subject to all valid existing rights. The United States will reserve rights-of-ways for ditches and canals and for an electric power transmission line.

At least 60 days prior to the sale, a Notice of Realty Action will be published in the Federal Register and a local newspaper, and a 45-day comment period will be provided.

Rationale

Sale of the subject land is the most logical means to resolve long-standing inadvertent unauthorized use of public land, initiated several decades ago by an adjoining landowner, predecessor in interest to the Voiles. This small parcel of land is separated from adjoining public land by a county road which causes it to be difficult and uneconomic to manage as part of the public lands. The Environmental Assessment (EA) prepared for the action indicates negligible resource values are present on the land, resulting in a Finding of No Significant Impact. No comments were received during a 30-day EA comment period.

Direct sale is considered appropriate in this case because of the need to protect equities arising from the unauthorized use. The small size and configuration of the public land, its historic use, and its location and orientation relative to the adjoining private land and farmstead make it impractical for another party to own

and use the public land. It would also be impracticable for the Bureau of Land Management to retain any portion of the subject public land.

Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, a notice of appeal must be filed in the BLM office at 3165 10th Street, Baker City, Oregon, 97814 within 30 days from the date that a notice of this decision is published in the Baker City Herald. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request), pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993), for a stay (suspension) of effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be also submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Penelope Dunn-Woods

February 9, 2004

Field Manager
Baker Resource Area

Date